

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

MARCUS A. JONES,)
)
Petitioner,)
)
v.) No. 2: 15 CV 79 DDN
)
WESLEY C. DALTON,)
)
Respondent,)

MEMORANDUM AND ORDER

This matter is before the Court upon review of petitioner's pro se petition for writ of mandamus. Petitioner must either pay the filing fee or file a motion to proceed in forma pauperis. *See* 28 U.S.C. § 1915(a).

Because petitioner is proceeding pro se, the Court will allow petitioner to file an amended petition. Petitioner has thirty days from the date of this Order to file an amended petition in accordance with the specific instructions set forth here. All claims in the action must be included in one centralized petition. *See* Fed. R. Civ. P. 7(a)(1), 8(a).

Additionally, petitioner is warned that the filing of an amended petition replaces the original petition and all previously-filed pleadings, so petitioner must include each and every one of the claims he wishes to pursue in the amended petition. *See, e.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005). Any claims from the original petition, supplements, and/or pleadings that are not included in the amended petition will be deemed abandoned and will not be considered. *Id.*

Finally, petitioner is directed to use the Court's form for habeas petitions under 28 U.S.C. § 2241. The Court understands that this action falls under the All Writs Act, 28 U.S.C. § 1651. However, use of the form will provide clarity to petitioner's claims.

Accordingly,

IT IS HEREBY ORDERED that the Clerk is directed to mail to petitioner a copy of the Court's petition for writ of habeas corpus under § 2241 form.

IT IS FURTHER ORDERED that the Clerk is directed to mail to petitioner a copy of the motion to proceed in forma pauperis form for prisoners.

IT IS FURTHER ORDERED that petitioner must file an amended petition on the Court's form within thirty (30) days of the date of this Order. Petitioner is advised that his amended petition will take the place of his original petition and will be the only pleading that this Court will review. So, the amended petition must include all of petitioner's claims.

IT IS FURTHER ORDERED that petitioner must either pay the \$400 filing fee or submit a motion to proceed in forma pauperis within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that if petitioner files a motion to proceed in forma pauperis, he must also file a certified copy of his prison account statement for the six-month period preceding the filing of the petition.

IT IS FURTHER ORDERED that if petitioner fails to comply with this Order, the Court will dismiss this action without prejudice. If the case is dismissed for non-

compliance with this Order, the dismissal will not count as a “strike” under 28 U.S.C. § 1915(g).

/s/ David D. Noce
UNITED STATES MAGISTRATE JUDGE

Signed on November 18, 2015.